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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of: **CHARI**

Application No: **09/671,995**

Group Art Unit: **1642**

Filed: **September 29, 2000**

Examiner: **Karen A. Canella, Ph.D.**

For: **Composition and Methods for Treating Cancer Using Immunoconjugates and Chemotherapeutic Agents**

Attorney Docket No: **104322.198 US1**

Commissioner of Patents  
PO Box 1450  
Alexandria, VA 22313-1450

**RESPONSE AND AMENDMENT UNDER 37 C.F.R. § 1.116**

This Response is submitted in reply to the Office Action mailed August 13, 2004, for which a response is due on or before November 13, 2004.

No fees are believed to be due; however, the Commissioner is authorized to charge any necessary fees or credit any overpayments to Deposit Account No. 08-0219.

**Amendments to the Claims** are reflected in the listing of claims beginning at page 2.

**Remarks** begin on page 12.

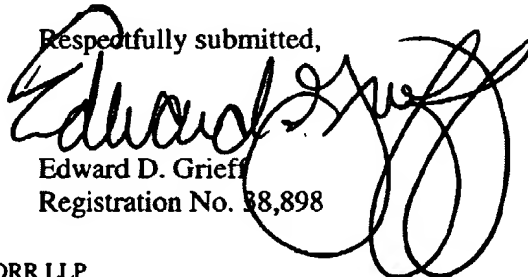
The Examiner has applied *per se* assumptions to determine that the claims are obvious. The Examiner should note that the use of *per se* rules by Office personnel is improper for determining whether claimed subject matter would have been obvious under 35 USC § 103. See, e.g., *In re Brouwer*, 37 USPQ2d 1663, 1666 (Fed. Cir. 1996). The Examiner is also reminded that a determination of patentability under 35 USC § 103 should be made upon the facts of the particular case in view of the totality of the circumstances. See, e.g., *In re Dillon*, 16 USPQ2d 1897, 1901 (Fed. Cir. 1990)(en banc), cert. denied, 500 US 904 (1991).

In view of the above, Applicant respectfully requests that this obviousness rejection be withdrawn.

#### VII. Conclusion

Applicant respectfully requests an early and favorable reconsideration and allowance of pending claims 105-120 and 144-163. The Examiner is encouraged to telephone the undersigned to expedite prosecution of this application.

Respectfully submitted,



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Date: November 15, 2004  
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